

South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-45

25-4-45. Child custody provisions--Modification--Preference of child

[Currentness](#)

In an action for divorce, the court may, before or after judgment, give such direction for the custody, care, and education of the children of the marriage as may seem necessary or proper, and may at any time vacate or modify the same. In awarding the custody of a child, the court shall be guided by consideration of what appears to be for the best interests of the child in respect to the child's temporal and mental and moral welfare. If the child is of a sufficient age to form an intelligent preference, the court may consider that preference in determining the question. As between parents adversely claiming the custody, neither parent may be given preference over the other in determining custody.

Credits

Source: SDC 1939, § 14.0724; [SL 1994, ch 192](#).

[Notes of Decisions \(329\)](#)

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Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-45.1

25-4-45.1. Fault not considered in awarding property or child custody--Exceptions

[Currentness](#)

Fault shall not be taken into account with regard to the awarding of property or the awarding of child custody, except as it may be relevant to the acquisition of property during the marriage or to the fitness of either parent in awarding the custody of children.

Credits

Source: SL 1976, ch 165.

[Notes of Decisions \(13\)](#)

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-45.2

25-4-45.2. Intervention by attorney general or state's attorney when support assigned to state

Currentness

In all cases where child support has been assigned to the state, the attorney general or the state's attorney shall have the right to intervene pursuant to [§ 15-6-24\(a\)](#) in ongoing divorce actions to obtain child support, or to petition the court to modify existing court orders for child support.

Credits

Source: [SDCL § 25-4-45](#) as added by SL 1977, ch 203, § 2.

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-45.3

25-4-45.3. Adoption of fee schedule for home studies or investigations ordered by court in custody proceedings

Currentness

The secretary of social services may, pursuant to chapter 1-26, adopt a schedule of fees for home studies or investigations ordered by the court in custody proceedings. The fees may not exceed actual costs and shall be based on the ability of the parties involved to pay for the home studies or investigations. The fees so adopted shall apply only to custody issues relating to or resulting from divorce or separate maintenance proceedings and shall not impose any fee or charges against the Unified Judicial System.

Credits

Source: SL 1987, ch 188.

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Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-45.4

25-4-45.4. Counsel appointed for child in certain divorce or
custody proceedings--Duty of counsel--Assistance--Costs

Currentness

Notwithstanding the provisions of [§ 26-7A-31](#), if the court determines mediation as provided in [§ 25-4-56](#) is not feasible the court may appoint counsel for any child involved in any divorce or custody proceeding, in which the child is alleged to be neglected or abused, or if a parent, guardian, or custodian request counsel be appointed in such proceeding and if the court determines that it is in the best interest of the child to have counsel appointed for the child. The counsel shall be charged with representation of the child's best interests and may not be counsel for any other party involved. The court may designate other persons who may or may not be attorneys to assist in the performance of the counsel's duties. The court shall allocate the cost of the appointed counsel between the parents, guardian, or custodian of the child.

Credits

Source: SL 1990, ch 199; [SDCL § 26-10-17.1](#).

Editors' Notes

COMMISSION NOTE

A reference to “§ 26-8-22.2” has been changed to “[§ 26-7A-31](#)” to show the effect of transferring and renumbering that section.

[Notes of Decisions \(1\)](#)

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Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-45.5

25-4-45.5. Consideration of domestic abuse and assault conviction in custody award

Currentness

In awarding custody involving a minor, the court shall consider:

- (1) A conviction of domestic abuse as defined in subdivision 25-10-1(1); or
- (2) A conviction of assault against a person as defined in subdivision 25-10-1(2), except against any person related by consanguinity, but not living in the same household; or
- (3) A history of domestic abuse.

The conviction or history of domestic abuse creates a rebuttable presumption that awarding custody to the abusive parent is not in the best interest of the minor. A history of domestic abuse may only be proven by greater convincing force of the evidence.

Credits

Source: SL 1997, ch 156, § 1; SL 2008, ch 122, § 1.

Notes of Decisions (7)

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-45.6

25-4-45.6. Consideration of conviction for death of other parent in custody award

[Currentness](#)

In awarding custody or granting rights of visitation involving a minor, the court shall consider a conviction, excluding vehicular homicide, of a parent for the death of the other parent. A conviction for the death of the other parent creates a rebuttable presumption that awarding custody or granting visitation to the convicted parent is not in the best interests of the minor.

Credits

Source: [SL 1997, ch 156, § 2.](#)

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Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-45.7

25-4-45.7. Protective orders and arrest reports considered in determining existence of history of domestic abuse

Currentness

For purposes of this chapter, in determining whether a history of domestic abuse exists, the court's consideration may include the issuance of a protection order against a parent or any arrest report of a parent following the response of law enforcement to a report of domestic abuse as defined in subdivision 25-10-1(1).

Credits

Source: [SL 2008, ch 122, § 2.](#)

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Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-45.8

25-4-45.8. Consideration of reporting abuse falsely or without good cause in custody award

Currentness

In determining what is in the best interest of any particular child, the court shall consider whether the person whose conduct is under review has ever attempted to influence a child custody hearing by, falsely or without good cause, reporting pursuant to chapter 26-8A that some other person has committed sexual abuse, physical abuse, or abuse and neglect against the child or a sibling of the child. Nothing in this section effects the confidentiality of records and files relating to reports of child abuse or neglect maintained by the Department of Social Services pursuant to chapter 26-8A.

Credits

Source: [SL 2010, ch 137, § 1.](#)

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[South Dakota Codified Laws](#)

[Title 25. Domestic Relations](#)

[Chapter 25-4. Divorce and Separate Maintenance \(Refs & Annos\)](#)

SDCL § 25-4-46

25-4-46. Alimony, support, property, and child custody provisions subject to review on appeal

[Currentness](#)

The disposition of the homestead by the court, and all orders and decrees touching the alimony and maintenance of a spouse, and for the custody, education, and support of the children as above provided are subject to revision on appeal in all particulars, including those which are stated to be in the discretion of the court.

Credits

Source: SDC 1939, § 14.0728; SL 1979, ch 165, § 5.

[Notes of Decisions \(6\)](#)

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-55

25-4-55. Exclusion of child from custody proceedings

[Currentness](#)

In proceedings under this chapter involving contested custody of a child, upon request of counsel for either party, the court may, for good cause and at its discretion, exclude the child from the proceedings.

Credits

Source: SL 1983, ch 203.

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-56

25-4-56. Custody and visitation disputes--Mediation order--Exceptions--Investigation--Allocation of costs

Currentness

In any custody or visitation dispute between parents, the court shall order mediation to assist the parties in formulating or modifying a plan, or in implementing a plan, for custody or visitation and shall allocate the cost of the mediation between the parties. However, mediation shall not be ordered if:

- (1) One of the parents has been convicted of domestic abuse as defined in subdivision 25-10-1(1); or
- (2) One of the parents has been convicted of assault against a person as defined in subdivision 25-10-1(2), except against any person related by consanguinity, but not living in the same household; or
- (3) One of the parents has a history of domestic abuse; or
- (4) Mediation is not readily available or the court determines that mediation is not appropriate based on the facts and circumstances of the case.

The court may also direct that an investigation be conducted to assist the court in making a custody or visitation determination and shall allocate the costs of such investigation between the parties. A history of domestic abuse may only be proven by greater convincing force of the evidence.

Credits

Source: SL 1989, ch 218; SDCL Supp, § 26-5A-31; [SL 1994, ch 193](#); [SL 2008, ch 123, § 1](#).

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-57

25-4-57. Court appointment of mediator

Currentness

For any mediation ordered pursuant to § 25-4-56 the court shall appoint a mediator from a list of qualified mediators approved by the court.

Credits

Source: SL 1996, ch 163, § 1.

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-58

25-4-58. Adoption of court rules establishing minimum qualifications of mediator

Currentness

The Supreme Court shall adopt rules establishing the minimum qualifications of a mediator. To be included on a list of qualified mediators approved by the court, a person must possess the minimum qualifications.

Credits

Source: [SL 1996, ch 163, § 2.](#)

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-58.1

25-4-58.1. Minimum qualifications for family court mediators

Currentness

To be eligible as a court appointed family court mediator under § 25-4-56, a mediator must have the following minimum qualifications:

- (1) A mediator must file an approved application on the prescribed form with the presiding judge for the circuit or circuits in which the mediator will conduct mediations. See prescribed form attached as Exhibit A.
- (2) A mediator must have both a minimum of forty (40) hours mediation training, plus experience in actual mediation sessions by consulting with a mediator approved under this rule for at least three mediation sessions. In place of forty (40) hours' training and consultation, a person may, with court approval, qualify as a mediator if that person has had five years' experience in mediating custody and visitation issues with a minimum of twenty (20) mediations during that period. A mediator must have competence in the following areas:
 - (a) General knowledge of the South Dakota court system and its procedures in contested family matters;
 - (b) General knowledge of South Dakota family law, especially as applied to custody and visitation issues;
 - (c) Knowledge of child development and specifically the impact of divorce or separation on family members;
 - (d) Knowledge of resources available in the state to which the parties and the children can be referred for assistance;
 - (e) Knowledge of interviewing and mediation techniques applicable to the family setting.
- (3) A mediator must be committed to and participate in continuing education courses.

EXHIBIT A

MEDIATOR APPLICATION FORM

UNIFIED JUDICIAL SYSTEM OF SOUTH DAKOTA

_____ **CIRCUIT COURT**

Name:

Address:

Day time Phone:

Instructions: Please complete the following questionnaire as specified under each section. If additional space is needed, attach a sheet for each area making sure to indicate the section of the questionnaire to which you are responding. This form must be filed with the Presiding Judge for each circuit in which you intend to participate in court appointed mediation.

1) Provide your professional background including degree(s), certificate(s), practice specialization(s), years of experience and special training:

2) Provide a full and complete disclosure of all professional employment experiences whether in the field of mediation or in any other field:

3) Provide complete information regarding any training, seminars, workshops, etc., you deem pertinent to mediation:

4) Provide the number of mediations in which you have been involved giving approximate dates of those mediations if available. Please indicate how many of the mediations were successful.

5) Describe methods of mediation you have used and time required to conduct a typical mediation:

6) Please describe how fees and costs are calculated for completion of a typical mediation:

7) Please describe the requirements for payment of fees:

I am aware of and agree to abide by the principles and guidelines set out in the Interim Standards for Mediators as promulgated by the Supreme Court of South Dakota.

Signature

Date

NOTE: This form must be updated as changes to the information occur or at least annually.

Approved:

Presiding Circuit Judge

Credits

Source: Supreme Court Rule 96-7; Supreme Court Rule 97-41; [SL 2012, ch 262 \(Supreme Court Rule 12-08\)](#), eff. July 1, 2012.

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-58.2

25-4-58.2. Conduct of family court mediators

Currentness

Mediators are expected to conduct themselves by the highest ethical standards. Mediators should conduct themselves and mediations according to the following general principles:

- (1) A mediator should recognize that mediation is based on participation and self-determination by the parties. A mediator shall conduct the mediation process fairly, diligently, impartially and in a manner consistent with assisting the parties in reaching a voluntary, uncoerced agreement on the issues outstanding between them.
- (2) A mediator shall fully disclose to all parties involved in the mediation any actual or potential conflicts of interest. A mediator shall not accept or shall withdraw from any mediation in which the mediator has reason to believe he or she cannot conduct the mediation in an impartial manner. After full disclosure of an actual or potential conflict of interest to the parties, the mediator shall withdraw from the mediation if requested by any party to do so.
- (3) A mediator should maintain confidentiality at all times except as provided by law or court order. A mediator may otherwise disclose information regarding the mediation only with the expressed consent of the parties.
- (4) A mediator shall fully disclose to the parties and explain the basis of compensation, fees, and other charges to the parties. This disclosure should occur at the first meeting of the mediator and the parties.

Credits

Source: Supreme Court Rule 96-7; Supreme Court Rule 97-42.

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-63

25-4-63. Custody and visitation disputes--Appointment of parenting coordinator

Currentness

In any custody or visitation dispute between parents, the court may appoint a parenting coordinator to assist the parents in resolving contested issues. The Supreme Court may promulgate rules pursuant to [§ 16-3-1](#) to prescribe the authority, duties, appointment, and compensation of parenting coordinators.

Credits

Source: [SL 2008, ch 124, § 1.](#)

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Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-64

25-4-64. Parenting coordinator appointment at party request or on court's own motion

[Currentness](#)

At the request of either party, or on the court's own motion, a parenting coordinator may be appointed in any custody or visitation proceeding. The parties may agree to use a parenting coordinator, subject to approval by the court, or the court may designate a parenting coordinator for the parties.

Credits

Source: [SL 2013, ch 268, § 1](#) (Supreme Court Rule 13-07), eff. July 1, 2013.

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SDCL § 25-4-65

25-4-65. Qualifications of parenting coordinator

Currentness

A parenting coordinator must satisfy the following minimum qualifications:

- (1) A parenting coordinator must file an approved application on the prescribed form with the presiding judge for the circuit in which the parenting coordinator will provide parenting coordinator services;
- (2) A parenting coordinator shall have a minimum of four hours of domestic violence training;
- (3) A parenting coordinator must have a minimum of forty (40) hours parenting coordination training. In place of forty (40) hours training, a person may, with court approval, qualify as a parenting coordinator if that person has had five years' experience in parenting coordination with a minimum of twenty (20) cases during that period. A parenting coordinator must have competence in the following areas:
 - (a) General knowledge of the South Dakota court system and its procedures in contested family matters;
 - (b) General knowledge of South Dakota family law, especially as applied to custody and visitation issues;
 - (c) Knowledge of child development and specifically the impact of divorce or separation on family members;
 - (d) Knowledge of resources available in the state to which the parties and the children can be referred for assistance;
 - (e) Knowledge of interviewing and problem-solving techniques applicable to the family setting.
- (4) A parenting coordinator must be committed to and participate in continuing education courses.
- (5) A parenting coordinator must either be an attorney who is licensed to practice law in South Dakota; a psychologist who is licensed to practice in South Dakota; a psychiatrist who is licensed to practice in South Dakota; a social worker, family therapist or substance abuse counselor licensed to practice in South Dakota; or any other South Dakota licensed or certified professional with education, experience and specialized expertise relevant to the duties of a parenting coordinator.

Credits

Source: [SL 2013, ch 268, § 2](#) (Supreme Court Rule 13-07), eff. July 1, 2013.

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Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-66

25-4-66. Appointment upon consent of parties

Currentness

Persons not meeting the requirements of [§ 25-4-65](#) may be appointed as a parenting coordinator by the court upon consent of the parties.

Credits

Source: [SL 2013, ch 268, § 3](#) (Supreme Court Rule 13-07), eff. July 1, 2013.

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Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-67

25-4-67. Parenting coordinator application form

Currentness

The prescribed form for a person seeking approval as a parenting coordinator is as follows:

PARENTING COORDINATOR APPLICATION FORM

UNIFIED JUDICIAL SYSTEM OF SOUTH DAKOTA

Instructions: To be considered for approval as a parenting coordinator an applicant must complete this application form fully and accurately. This information must be filed with the Presiding Judge for the circuit in which the parenting coordinator will provide parenting coordinator services. You will be notified if any additional information is required and if your application is approved.

Name:

.....

Address:

.....

Daytime Phone:

Fax Number:

Email:

(1) Provide your professional background including degree(s), certificate(s), practice specialization(s), years of experience, special training, and any licensures held and dates obtained:

(2) Provide a full and complete description of your experience in the following areas:

(a) knowledge of the South Dakota court system and its procedures in contested family matters;

(b) knowledge of South Dakota family law, especially as applied to custody and visitation issues;

(c) knowledge of child development and specifically the impact of divorce or separation on family members;

(d) knowledge of resources available in the state to which the parties and the children can be referred for assistance;

(e) knowledge of interviewing and problem-solving techniques applicable to the family setting.

(3) Provide a full and complete disclosure of all professional employment experiences whether related to the role of a parenting coordinator or in any other field:

(4) Provide complete information regarding any training, seminars, workshops, etc., you deem pertinent to family law, custody and visitation disputes, interviewing and dispute resolution techniques, child-rearing, child development, domestic violence or abuse or any other areas relevant to the services of a parenting coordinator that you have received:

(5) Provide the number of proceedings in which you have been involved as a family court mediator or parenting coordinator giving approximate dates if available:

(6) Describe your approach to resolving high-conflict situations and the methods of dispute resolution you have used:

(7) Please describe how fees and costs will be calculated for your services as a parenting coordinator:

(8) Please describe the requirements for payment of fees:

(9) Please indicate if you are willing to accept pro bono cases or cases at a reduced rate. If so, please explain:

I am aware of and agree to abide by the rules for parenting coordinators as promulgated by the Supreme Court of South Dakota.

I understand that being approved and placed on the roster does not guarantee or ensure my appointment to any specific case or cases.

.....
Signature

Date

NOTE: This form must be updated as changes to the information occur or at least annually.

Approved:
.....

Presiding Judge

Date

Credits

Source: [SL 2013, ch 268, § 4](#) (Supreme Court Rule 13-07), eff. July 1, 2013.

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Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-68

25-4-68. Term of parenting coordinator--Resignation--Discharge

[Currentness](#)

The term of the parenting coordinator will be designated in the order of appointment. The parenting coordinator may resign upon notice to the parties and the court. Absent an order of the court, one or both parties cannot discharge a parenting coordinator. The court may terminate the service of the parenting coordinator at any time.

Credits

Source: [SL 2013, ch 268, § 5](#) (Supreme Court Rule 13-07), eff. July 1, 2013.

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-69

25-4-69. Parenting coordinator fees and costs

Currentness

A parenting coordinator shall disclose how fees and costs will be calculated for any services rendered and such fees and costs are subject to the approval of the court. The fees and costs for any parenting coordinator shall be at the sole expense of the parties. The court will determine the allocation of any fees between the parties in the order of appointment and may through subsequent court order change the allocation of fees and reallocate fees already paid based on the circumstances of any particular case.

Credits

Source: [SL 2013, ch 268, § 6](#) (Supreme Court Rule 13-07), eff. July 1, 2013.

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-70

25-4-70. Duties of parenting coordinator

Currentness

The court order appointing the parenting coordinator shall specify the scope of the appointment and authority of the parenting coordinator. Additionally, a parenting coordinator may be ordered to do one or more of the following:

- (1) Inform the parties of the role of the parenting coordinator;
- (2) Monitor implementation of a voluntary or court-ordered parenting plan, the schedule, or parenting time issues provided such resolution does not involve a substantive change to the court's order;
- (3) Recommend strategies for implementing the parenting plan or resolving other parenting issues that may be impacting the parenting plan;
- (4) Assist the parties in developing communication and cooperation for the purpose of effective co-parenting of the children;
- (5) Assist with implementation of court orders and make recommendations to the court regarding implementation, clarification, modification, and enforcement of any temporary or permanent parenting time orders;
- (6) Exclude counsel for the parties from participating in any parenting coordinator sessions;
- (7) Implement domestic violence safeguards as the court deems necessary. For example, ordering no direct communications or no joint meetings, ensuring compliance with all provisions of any protection order or order in a criminal proceeding;
- (8) Document the services provided and record agreements reached;
- (9) Recommend appropriate community resources to one or both parents;
- (10) Educate the parties to effectively parent in a manner that minimizes conflict, develops appropriate parenting skills, identifies sources of conflict, and works to lessen the effect of conflict on the children;
- (11) Make recommendations on the day-to-day issues experienced by the parties;

- (12) Act to empower the parties in resuming parental controls and decision-making, and minimize the degree of conflict between the parties for the best interests of the children;
- (13) Facilitate the ability of both parents to maintain ongoing relationships with the children;
- (14) Only with the prior consent of the court as specified in the order of appointment, make limited decisions subject to review by the court upon motion of the parties as specified in the order of appointment. By way of example only, these issues include disagreements around exchanges, time-sensitive issues, holiday scheduling, discipline, health issues, school and extracurricular activities, and managing problematic behaviors by the parents or children; and
- (15) Interview law enforcement, social workers, health care providers, daycare providers, teachers and family members as necessary to fulfill the terms of the court order. The parties shall be required to sign releases authorizing the parenting coordinator to speak to specific third parties about specific events.

A parenting coordinator shall not have the authority to make any decision affecting child support, a change of custody, or a substantial change in parenting time.

The order appointing the parenting coordinator shall provide direction to the parenting coordinator regarding information or records, if any, which the parenting coordinator is to file with the court. The parenting coordinator shall not engage in ex-parte communication with the court and all documents sent to or filed with the court shall also be sent to the parties in the case.

Credits

Source: [SL 2013, ch 268, § 7](#) (Supreme Court Rule 13-07), eff. July 1, 2013.

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S D C L § 25-4-70, SD ST § 25-4-70

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[South Dakota Codified Laws](#)

[Title 25. Domestic Relations](#)

[Chapter 25-4. Divorce and Separate Maintenance \(Refs & Annos\)](#)

SDCL § 25-4-71

25-4-71. Attorney and parenting coordinator fees related to motion

[Currentness](#)

The court may award attorney fees and allocate the fees of the parenting coordinator related to any motion of the parties.

Credits

Source: [SL 2013, ch 268, § 8](#) (Supreme Court Rule 13-07), eff. July 1, 2013.

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-73

25-4-73. Standards of conduct for parenting coordinators

Currentness

Parenting coordinators are expected to conduct themselves by the highest ethical standards. Parenting coordinators should conduct themselves according to the following general principles:

- (1) A parenting coordinator should recognize that success is based on participation and self-determination by the parties. A parenting coordinator shall conduct any session fairly, diligently, impartially and in a manner consistent with assisting the parties under the direction of the court's order and in the best interests of the children.
- (2) A parenting coordinator shall fully disclose to all parties involved any actual or potential conflict of interest. A parenting coordinator shall not accept or shall withdraw from any matter in which the parenting coordinator has reason to believe he or she cannot proceed in an impartial manner. After full disclosure of an actual or potential conflict of interest to the parties, the parenting coordinator shall withdraw from the case if requested by any party to do so within ten days of the disclosure.
- (3) A parenting coordinator shall maintain impartiality in the process of parenting coordination. Impartiality means freedom from favoritism or bias in word, action or appearance, and includes a commitment to assist all parties, as opposed to any one individual. A parenting coordinator shall withdraw if the parenting coordinator determines he or she cannot act in an impartial or objective manner.
- (4) A parenting coordinator shall not provide any other professional services to either party or the minor children while serving as a parenting coordinator. A parenting coordinator shall also ensure that any prior history of involvement with the parties does not conflict with the role of parenting coordinator, and shall not assume a role subsequent to acting as parenting coordinator which conflicts with the prior role of parenting coordinator.
- (5) Incidents of suspected child or adult abuse or neglect that meet the mandatory reporting standards under South Dakota law shall be reported by the Parenting Coordinator to the appropriate authorities.
- (6) A parenting coordinator should make a conscious effort to recognize violence or abuse by or against the parties or children. A parenting coordinator shall consider the safety of all involved when structuring the parenting coordination process and may recommend that parenting coordination is not appropriate for the parties.

Credits

Source: [SL 2013, ch 268, § 10](#) (Supreme Court Rule 13-07), eff. July 1, 2013.

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4. Divorce and Separate Maintenance (Refs & Annos)

SDCL § 25-4-74

25-4-74. Communications with parenting coordinator not confidential

Currentness

Parenting coordination is not a confidential process. There is also no evidentiary privilege for communications made as part of the parenting coordination process. The parenting coordinator may be called to testify if ordered by the court in the case.

Credits

Source: [SL 2013, ch 268, § 11](#) (Supreme Court Rule 13-07), eff. July 1, 2013.

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South Dakota Codified Laws
Title 25. Domestic Relations
Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-1

25-4A-1. Custody or visitation rights enforceable by contempt proceedings

[Currentness](#)

After notice and hearing, any decree or order of the court relating to custody of or visitation with a child may be enforced by contempt.

Credits

Source: [SL 1994, ch 195, § 1.](#)

[Notes of Decisions \(2\)](#)

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South Dakota Codified Laws
Title 25. Domestic Relations
Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-2

25-4A-2. Written request for order to show cause for violation of visitation or custody decree--Hearing date

Currentness

Any party granted visitation or custody rights to a child by a court decree may request the court to enter an order to show cause why the other party should not be held in contempt of court for violation of the decree relating to visitation or custody of the child. Upon receipt of a written request for an order to show cause, the court may issue such an order and forthwith schedule a hearing date not less than thirty days in the future. No particular formality may be required of the moving party in making a written request for an order to show cause.

Credits

Source: [SL 1994, ch 195, § 2.](#)

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South Dakota Codified Laws
Title 25. Domestic Relations
Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-3

25-4A-3. Affirmative inquiry into contempt--Contemnor's rights

Currentness

At the hearing, the court shall affirmatively inquire into the matters of visitation and custody and enter any orders the court deems appropriate. The alleged contemnor has the right to remain silent and the right to counsel.

Credits

Source: [SL 1994, ch 195, § 3.](#)

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South Dakota Codified Laws
Title 25. Domestic Relations
Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-4

25-4A-4. Affirmative defense by contemnor

[Currentness](#)

An alleged contemnor may plead and prove that the movant voluntarily relinquished the actual care, control, and possession of the child for time encompassed by the court-ordered periods of possession. Such a relinquishment is an affirmative defense in whole or part to the order to show cause.

Credits

Source: [SL 1994, ch 195, § 4.](#)

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-5

25-4A-5. Violation of custody or visitation decree--Sanctions

Currentness

If the court finds that any party has willfully violated or willfully failed to comply with any provisions of a custody or visitation decree, the court shall impose appropriate sanctions to punish the offender or to compel the offender to comply with the terms of the custody or visitation decree.

Sanctions which the court may, in its discretion, order include:

- (1) To require the offender to provide the other party with make up time with the child equal to the time missed with the child, due to the offender's noncompliance;
- (2) To require the offender to pay, to the other party, court costs and reasonable attorney's fees incurred as a result of the noncompliance;
- (3) To require the offender to pay a civil penalty of not more than the sum of one thousand dollars;
- (4) To require the offender to participate satisfactorily in counseling or parent education classes;
- (5) To require the offender to post bond or other security with the court conditional upon future compliance with the terms of the custody or visitation decree or any ancillary court order;
- (6) To impose a jail sentence on the offender of not more than three days.

The provisions of this section do not prohibit the court from imposing any other sanction appropriate to the facts and circumstances of the case.

Credits

Source: [SL 1994, ch 195, § 5](#); [SL 2008, ch 125, § 1](#).

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South Dakota Codified Laws
Title 25. Domestic Relations
Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-6

25-4A-6. Probation for contemnor

[Currentness](#)

The contemnor may be placed on probation for a period of time, not to exceed five years or until discharge. The probation, if warranted, may be supervised by a probation officer who shall, if directed by the court, require reports from the contemnor and visit with the contemnor at the contemnor's home.

Credits

Source: [SL 1994, ch 195, § 6.](#)

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South Dakota Codified Laws
Title 25. Domestic Relations
Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-7

25-4A-7. Motion to revoke probation of contemnor

Currentness

Any violation of the terms and conditions of the probation imposed by the court may be brought before the court by a motion to revoke probation. The motion to revoke probation may be made by the original moving party, the attorney general, or the state's attorney. If the motion to revoke probation alleges a prima facie case that the probationer has violated a term or condition of probation, the court may cause the probationer's arrest by warrant. An arrested probationer shall be brought promptly before the court causing the arrest.

Credits

Source: [SL 1994, ch 195, § 7.](#)

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-8

25-4A-8. Application of section 23A-38-2 to proceedings for custody or visitation decree violations

Currentness

The provisions of § 23A-38-2 do not apply to §§ 25-4A-1 to 25-4A-7, inclusive.

Credits

Source: SL 1994, ch 195, § 8.

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-9

25-4A-9. Standard guidelines defined

Currentness

For the purposes of §§ 25-4A-9 to [25-4A-16](#), inclusive, the term, standard guidelines, means the parenting guidelines established by court rules promulgated by the South Dakota Supreme Court pursuant to [§ 25-4A-10](#).

Credits

Source: [SL 2002, ch 125, § 1](#); [SL 2008, ch 126, § 1](#).

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[South Dakota Codified Laws](#)

[Title 25. Domestic Relations](#)

[Chapter 25-4A. Custody and Visitation Rights](#)

SDCL § 25-4A-10

25-4A-10. Supreme Court to promulgate guidelines for noncustodial parenting time

[Currentness](#)

The South Dakota Supreme Court shall promulgate court rules establishing standard guidelines to be used statewide for minimum noncustodial parenting time in divorce or separate maintenance actions or any other custody action or proceeding. The standard guidelines shall provide a framework for noncustodial parenting time including frequency and time for noncustodial parenting time; hours or days of noncustodial parenting time; definitions for weekends, holidays, birthdays, and other special occasions; and time periods for summer noncustodial parenting time. In establishing the standard guidelines, the court may consider varying ages and circumstances of children and treat varying ages and circumstances differently.

Credits

Source: [SL 2002, ch 125, § 2](#); [SL 2008, ch 126, § 2](#).

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-11

25-4A-11. Plaintiff in custody action to file and serve guidelines--Guidelines as court order--Custody of minors

[Currentness](#)

Upon the filing of a summons and complaint for divorce or separate maintenance or any other custody action or proceeding, the plaintiff shall also file and serve upon the defendant a copy of the standard guidelines. The standard guidelines attached to the summons shall become an order of the court upon fulfillment of the requirements of service. Any minor child of the marriage shall remain in the custody of the parent who has been the primary caregiver for the minor child for the majority of time in the twelve months preceding the filing of the summons and complaint, unless the parties agree otherwise. The standard guidelines shall apply and continue in effect, unless the parties agree, or the court orders otherwise. Imposition of the standard guidelines creates no presumption as to who may be awarded custody at any hearing.

Credits

Source: [SL 2002, ch 125, § 3](#); [SL 2008, ch 127, § 1](#).

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South Dakota Codified Laws
Title 25. Domestic Relations
Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-12

25-4A-12. Visitation agreement other than standard guidelines--Requirements

[Currentness](#)

Any agreement by the parties for visitation other than the standard guidelines shall be in writing, signed by both parties and filed with the court. The agreed plan shall be approved by court order and replace the standard guidelines or any plan previously filed.

Credits

Source: [SL 2002, ch 125, § 4.](#)

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South Dakota Codified Laws
Title 25. Domestic Relations
Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-13

25-4A-13. Objections to custody or visitation order--Hearing--Temporary order

Currentness

If either party objects to the initial custody arrangement in [§ 25-4A-11](#) or the standard guidelines, the court shall order a hearing which shall be held not later than thirty days after the date of the objection. The court shall issue its temporary custody and visitation order after considering the best interests of the child consistent with the provisions of [§ 25-4-45](#).

Credits

Source: [SL 2002, ch 125, § 5](#).

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South Dakota Codified Laws
Title 25. Domestic Relations
Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-14

25-4A-14. Standard guidelines subject to certain court orders

Currentness

The standard guidelines are subject to any provision established by a South Dakota state court in the following: a temporary or permanent domestic protection order, an order arising out of an abuse or neglect proceeding, a bond condition arising out of a criminal case, and an order in any other proceeding affecting child custody or support.

Credits

Source: [SL 2002, ch 125, § 6.](#)

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South Dakota Codified Laws
Title 25. Domestic Relations
Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-15

25-4A-15. Attorney fees and costs

Currentness

The court may order either party to pay attorney fees and costs in an action filed under §§ 25-4A-9 to 25-4A-16, inclusive, in accordance with § 15-17-38 or any other applicable statute.

Credits

Source: SL 2002, ch 125, § 7.

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South Dakota Codified Laws
Title 25. Domestic Relations
Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-16

25-4A-16. Parents responsible for child support

Currentness

The parents are responsible for payment of child support in accordance with [§ 25-7-6.1](#).

Credits

Source: [SL 2002, ch 125, § 8](#).

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-16.1

25-4A-16.1. Request for implementation of standard visitation guidelines--Objection--Hearing--Order

Currentness

Subject to the jurisdictional and procedural provisions of chapter 26-5B, any parent subject to a court order of this state or subject to the jurisdiction of a court of this state pursuant to chapter 26-5B relating to visitation, custody, or child support may request the court to enter an order implementing the standard visitation guidelines. If the request is made in a child support proceeding, compliance with chapter 26-5B, including appropriate notice and an opportunity to be heard, if not previously provided, is required. The request shall be in writing and shall include a copy of the existing order establishing custody, visitation, or support and provide a current address of the responding party. Upon filing of the written request, the moving party shall serve a copy of the standard guidelines, together with a copy of the request and provide notice that absent an objection, the guideline visitation shall be imposed. The notice shall provide instructions as to the manner in which objections may be made. The service of such notice shall be deemed complete when an affidavit of the service of such notice and of the particular mode thereof, duly signed and verified by the person or officer making the service, shall have been filed with the court and such record or affidavit shall be presumptive evidence of the completed service of the notice herein required. If a party objects to the imposition of the standard guidelines within ten days of service, the court shall conduct an expedited hearing as soon as practical. Based upon the evidence presented at the hearing, the court may order the parties to abide by the standard visitation guidelines or may order any other relief as it deems appropriate.

Credits

Source: SL 2006, ch 140, § 1; SL 2008, ch 128, § 1; SL 2009, ch 278 (Supreme Court Rule 08-08), eff. Nov. 1, 2008; SL 2012, ch 140, § 1.

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-17

25-4A-17. Notice required before relocating child not living with both legal parents--Exceptions

Currentness

If an existing custody order or other enforceable agreement does not expressly govern the relocation of the principal residence of a child, a parent who intends to change his or her principal residence shall, provide reasonable written notice by certified mail or admission of service to the other legal parent of the child. Reasonable notice is notice that is given at least forty-five days before relocation or a shorter period if reasonable under the specific facts giving rise to the relocation. Proof of the notice shall be filed with the court of record unless notice is waived by the court.

No notice need be provided pursuant to this section if:

- (1) The relocation results in the child moving closer to the noncustodial parent; or
- (2) The relocation is within the boundaries of the child's current school district; or
- (3) There is an existing valid protection order in favor of the child or the custodial parent against the noncustodial parent; or
- (4) Within the preceding twelve months, the nonrelocating parent has been convicted of violation of a protection order, criminal assault, child abuse, or other domestic violence and either the child or the custodial parent was the victim of the crime or violation.

Credits

Source: [SL 2004, ch 173, § 1.](#)

[Notes of Decisions \(4\)](#)

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South Dakota Codified Laws
Title 25. Domestic Relations
Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-18

25-4A-18. Contents of notice of relocation

Currentness

The notice required in § 25-4A-17 shall contain the following:

- (1) The address and telephone number, if known, of the new residence;
- (2) The purpose for relocating;
- (3) Why the relocation is in the best interest of the child; and
- (4) The relocating party's proposed visitation plan for the nonrelocating parent upon relocation.

Credits

Source: [SL 2004, ch 173, § 2.](#)

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-19

25-4A-19. Request for hearing on relocation--Presumption of consent

[Currentness](#)

At the request of the nonrelocating parent, made within thirty days of the notice of relocation, the court shall hold a hearing on the relocation. If no request for hearing is made within thirty days of notice, the relocation is presumed to be consented to by the nonrelocating parent.

Credits

Source: [SL 2004, ch 173, § 3.](#)

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South Dakota Codified Laws
Title 25. Domestic Relations
Chapter 25-4A. Custody and Visitation Rights

SDCL § 25-4A-20

25-4A-20. Prohibition, revocation, or restriction of visitation
rights of person causing conception by rape or incest

[Currentness](#)

If it is in the best interest of the child, the court may prohibit, revoke, or restrict visitation rights to a child for any person who has caused the child to be conceived as a result of rape or incest.

Credits

Source: [SL 2006, ch 139, § 2.](#)

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4A. Custody and Visitation Rights

Appendix to Chapter 25-4A South Dakota Parenting Guidelines

SDCL, Ch. 25-4A, App. A, Parenting Guidelines Introduction

Introduction

Currentness

A powerful cause of stress, suffering, and maladjustment in children of divorce or separation is not simply the divorce or separation itself, but rather the continuing conflict between their parents before, during, and after the divorce and/or separation. To minimize harm to their children, parents should agree on a parenting arrangement that is most conducive to the children having frequent and meaningful contact with both parents, with as little conflict as possible. When parental maturity, personality, and communication skills are adequate, the ideal arrangement is reasonable time with the noncustodial parent upon reasonable notice, since that provides the greatest flexibility. The next best arrangement is a detailed parenting agreement made by the parents to fit their particular needs and, more importantly, the needs of their children. It is recommended that an annual calendar be prepared so that the parents and the children are aware of the parenting schedule. If the parents are unable to agree on their own Parenting Plan, however, these Guidelines become mandatory and will be used as their Parenting Plan. [SDCL 25-4A-10, 25-4A-11](#). In the event a parent's time with the children becomes an issue in court, the judge will set whatever Parenting Plan best meets the needs of the children.

Credits

Source: [SL 2004, ch 313 \(Supreme Court Rule 02-07\)](#), eff. July 1, 2002; [SL 2013, ch 261](#), (Supreme Court Rule 12-10), eff. Apr. 18, 2012.

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S D C L, Ch. 25-4A, App. A, Parenting Guidelines Introduction, SD ST CH 25-4A APP A Guidelines Introduction

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-4A. Custody and Visitation Rights

Appendix to Chapter 25-4A South Dakota Parenting Guidelines

SDCL, Ch. 25-4A, App. A, Parenting Guideline 1

Guideline 1. General Rules

Currentness

A parent must always avoid speaking negatively about the other parent and must firmly discourage such conduct by relatives or friends. Each parent should speak in positive terms about the other parent in the presence of the children. Each parent must encourage the children to respect the other parent. Children should never be used by one parent to spy or report on the other parent. The basic rules of conduct and discipline established by the custodial parent should be the baseline standard for both parents and any step-parents, and consistently enforced by all caregivers, so that the children do not receive mixed messages.

Children will benefit from continued contact with all relatives and friends on both sides of the family for whom they feel affection. Such relationships must be protected and encouraged. But relatives, like parents, need to avoid being critical of either parent in front of the children. Parents should have their children maintain ties with both the maternal and paternal relatives. Usually the children will visit the paternal relatives during times when the children are with their father and the maternal relatives during times when they are with their mother.

In cases where both parents reside in the same community at the time of separation, and then one parent leaves the area, thus changing the Parenting Plan, the court will consider imposing on the parent who moved the travel costs for the children necessary to facilitate future time with the children; however, the court will also consider other factors such as the economic circumstances of the parents and the reasons prompting the move. Before relocating the children, the custodial parent is required to comply with South Dakota's statutory forty-five-day written notice requirements. SDCL 25- 4A-17.

1.1. Parental Communication. Parents must always keep each other advised of their home and work addresses and telephone numbers. Whenever feasible, all communication concerning the children must be conducted directly between the parents in person, or by telephone, or at their residences, or via email or text message. Absent an emergency, communication should not occur at a parent's place of employment.

1.2. Grade Reports and Medical Information. The custodial parent must provide the noncustodial parent with the name, address, and telephone number of the school where any child attends and must authorize the noncustodial parent to communicate concerning the child directly with the school and with the child's doctors and other professionals, outside the presence of the custodial parent. The noncustodial parent also has an obligation to contact the school to ensure receipt of school report cards, notices, etc., so that he/she can remain involved with their child's education. Both parents will be listed on all of the child's records. Each parent must immediately notify the other parent of any medical emergencies or serious illnesses of a child. Access to records and information pertaining to a minor child, including, but not limited to, medical, dental, orthodontia and similar health care, and school records must be made equally available to both parents. Counseling, psychiatric, psychotherapy, and other records subject to confidentiality or privilege must only be released in accordance with state and federal law; but, if available to one parent, must be available to both. The parents must make reasonable efforts to ensure that the name and address of the other parent is listed on all such records. If the child is taking medications, the custodial parent must provide a sufficient amount and appropriate instructions. If either parent enrolls the child in any social, beneficent, religious, or peer group activity, service, benefit, or program for which written application is required, the enrolling parent must provide the name and address

of the other parent on, or supplementary to, the application. [This provision does not apply to insurance or annuities.] The parent enrolling the child shall advise the other parent of the name of the coach, director, and organization providing the activity along with their contact information. The custodial parent must notify the noncustodial parent of all school or other events (for example, church and sports) involving parental participation. The noncustodial parent also has an obligation to contact the activity director to ensure receipt of information such as practice schedules, games, etc.

1.3. Clothing. The custodial parent will send an appropriate supply of children's clothing with the children, which must be returned clean (when reasonably possible) with the children by the noncustodial parent. The noncustodial parent must advise, as far in advance as possible, of any special activities so that appropriate clothing belonging to the children may be sent. It is recommended that the noncustodial parent have some basic clothing available in his/her home to ensure that all of the children's basic needs are met.

1.4. Withholding Support or Time With the Children. Neither time with the children nor child support is to be withheld because of either parent's failure to comply with a court order. Only the court may enter sanctions for non-compliance. Children have a right both to support and, absent abuse or other safety concerns, time with the noncustodial parent, neither of which is dependent upon the other. In other words, no support does not mean the children will spend no time with the noncustodial parent, and no time with the noncustodial parent does not mean no support needs to be paid to the custodial parent. If there is a violation of either the parenting order or a support order, the exclusive remedy is to apply to the court for appropriate sanctions.

1.5. Adjustments in Parenting Plan. Although this is a specific schedule, the parents are expected to fairly modify the Parenting Plan when family necessities, illnesses, or commitments reasonably so require. The requesting parent must act in good faith and give as much notice as circumstances permit.

1.6. Parent's Vacation with Children. Unless otherwise specified in a court order or agreed upon by the parents, each parent is entitled to a vacation with the children for a reasonable period of time, usually equal. The custodial parent should plan a vacation during the time when the other parent is not scheduled to spend time with the children. Parents are encouraged to coordinate vacation plans.

1.7. Insurance Forms. The parent who has medical insurance coverage on the children must supply to the other parent an insurance card and, as applicable, insurance forms and a list of insurer-approved or HMO-qualified health care providers in the area where the other parent is residing. Except in emergencies, the parent taking the children to a doctor, dentist, or other provider not so approved or qualified may be required to pay the additional cost thus created. However, when there is a change in insurance, which requires a change in medical care providers and a child has a chronic illness, thoughtful consideration should be given by the parents to what is more important, i.e., allowing the child to remain with the original provider or the economic consequences of changing carriers. When there is an obligation to pay medical expenses, the parent responsible for paying must be promptly furnished with the bill, and where applicable, the explanation of benefits, by the other parent. The parents must cooperate in submitting bills to the appropriate insurance carrier. Thereafter, the parent responsible for paying the balance of the bill must make arrangements directly with the health care provider and will inform the other parent of such arrangements. Insurance refunds must be promptly turned over to the parent who paid the bill for which the refund was received.

1.8. Child Support Abatement. Unless a court order otherwise provides, child support will not abate during any period when the children are with the noncustodial parent. South Dakota law allows for child support abatements and offsets under certain circumstances. See generally SDCL 25-7. However, no abatement or offset may be taken unless there is a court order authorizing it.

1.9. Noncustodial Parent's Missed Time With the Children. When scheduled time with the children cannot occur due to events beyond either parent's control, such as illness of the parent exercising time with the children, then a mutually agreeable substituted date will be arranged, as quickly as possible. Each parent must timely advise the other parent when scheduled time with the children cannot be exercised. Missed time with the children must not be unreasonably accumulated.

1.10. Children of Different Ages. Except with very young children and adolescents, it usually makes sense for all the children to share the same schedule of parenting time with the noncustodial parent. Having brothers or sisters along can be an important support for children. Infants have special needs that may well prevent a parent from being with both the infant and the older children at the same time. Teenagers' special needs for peer involvement and for some control of their own lives may place them on different schedules from their younger brothers and sisters. Because it is intended that the noncustodial parent's time with the children be a shared experience between siblings and, unless these guidelines, a court order, or circumstances such as age, illness, or a particular event suggests otherwise, all the children should participate together in spending time with the noncustodial parent.

1.11. Communication with Children. Either parent may call, text, email, or Skype (or use similar technology) to communicate with the children at reasonable times and with reasonable frequency during those periods the children are with the other parent. The children may, of course, call, text, email, or Skype (or use similar technology) to communicate with either parent, at reasonable hours and with reasonable frequencies. Parents are cautioned that communication between the parent and the children should not be so excessive as to interfere with the other parent's time, nor used to undermine the other parent's authority. During long vacations, the parent with whom the children are on vacation is required to make the children available for telephone calls with the other parent at least every three days. At all other times, the parent the children are with must not refuse to answer the other parent's telephone calls or turn off the telephone in order to deny the other parent telephone contact. If a parent uses an answering machine or cell phone voicemail, messages left should be returned by a telephone call to that parent as soon as possible. Parents should agree on a specified time for calls to the children so that the children will be made available. A parent may wish to provide an older child with a cell phone to facilitate these communications. In such instances, it is not appropriate for a parent to use restrictions from talking to the other parent on that cell phone as a means of punishing the child. Communication between a parent and child must not be censored, recorded, or monitored, absent a court order. With older children, establishing an email account for communication with the other parent is recommended and should likewise not be read or monitored by the other parent without court permission. Email communication or text messaging between parents is also helpful in keeping the other parent informed about the children. Abuse, neglect, criminal activity, or protection orders may impact access to information regarding the custodial parent or the children.

1.12. Other Contact. Parents have an unrestricted right to send cards, letters, packages, audio and video cassettes, CDs, or similar items, to their children. Children also have the same right to send items to their parents. Neither parent will interfere with this right. A parent may wish to provide the children with self-addressed, stamped envelopes for the children's use in corresponding with that parent.

1.13. Privacy of Residence. A parent may not enter the residence of the other parent except by express invitation of the resident parent, regardless of whether a parent retains a property interest in the residence. The children must be picked up at and returned to the front entrance of the other parent's residence. The parent dropping off the children must not leave until the children are safely inside the other parent's residence. Parents must refrain from surprise visits to the other parent's home. A parent's time with the children is his/her own, and the children's time with the other parent is equally private.

1.14. Special Considerations for Adolescents. While children never get to choose where they live, within reason, the parents should honestly and fairly consider their teenager's wishes on time with a parent. Neither parent should attempt to pressure their

teenager to make a decision on time with a parent adverse to the other parent. Teenagers should explain the reasons for their wishes directly to the affected parent, without intervention by the other parent.

1.15. Day Care Providers. When parents reside in the same community, they should use the same day care provider. To the extent feasible, the parents should rely on each other to care for the children when the other parent is unavailable.

1.16. Special Circumstances:

A. *Child Abuse.* When child abuse has been established and a continuing danger is shown to exist, all time with the abusive parent must cease or only be allowed under supervision, depending on the circumstances. Court intervention is usually required in child abuse cases.

B. *Domestic Abuse.* Witnessing domestic abuse has long-term, emotionally detrimental effects on children. A person who loses control and acts impulsively with the other parent may be capable of doing so with children as well. Depending on the nature of the spousal abuse and when it occurred, the court may require an abusive parent to successfully complete appropriate counseling before being permitted unsupervised time with the children.

C. *Substance Abuse.* Time with the children must not occur when a parent is abusing substances.

D. *Long Interruption of Contact.* In those situations where the noncustodial parent has not had an ongoing relationship with the children for an extended period, time with the children should begin with brief parenting time and a gradual transition to the Parenting Plan in these guidelines.

E. *Abduction Threats.* Noncustodial parents who have threatened to abduct or hide the children will have either no time with the children or only supervised time.

F. *Breastfeeding Child.* Parents must be sensitive to the special needs of breastfeeding children. A child's basic sleep, feeding, and waking cycles should be maintained to limit disruption in the child's routine. Forcibly changing these routines due to the upheaval of parental disagreement is detrimental to the physical health and emotional well-being of the child. On the other hand, it is important that the child be able to bond with both parents.

(a) For children being exclusively breastfed, the nursing child can still have frequent parenting time with the father. The amount of time will be dictated by the infant's feeding schedule, progressing to more time as the child grows older. Yet where both parents have been engaged in an ongoing caregiving routine with a nursing child, the same caregiving arrangement should be continued as much as possible to maintain stability for the child. If the father has been caring for the child overnight or for twenty-four hour periods while the nursing mother sleeps or works, then these guidelines encourage that arrangement to continue.

(b) A mother may not use breastfeeding as a means to deprive the father of time with the child. If, for example, a nursing mother uses day care or a babysitter for the child, the same accommodations (i.e., bottle feeding with breast milk or formula, or increased time between breast feeding sessions) used with the day care provider or babysitter will be used with the father, if the father is capable of personally providing the same caregiving.

G. *A Parent's New Relationship*. Parents should be sensitive to the danger of exposing the children too quickly to new relationships while they are still adjusting to the trauma of their parents' separation and/or divorce.

H. *Religious Holidays and Native American Ceremonies*. Parents must respect their children's needs to be raised in their faith and to maintain their cultural heritage and must cooperate with each other to achieve these goals. However, religious holidays and Native American ceremonies should not be used to unreasonably deprive the noncustodial parent of time with the children.

I. *Other*. The court will limit or deny time with the children to parents who show neglectful, impulsive, immoral, criminal, assaultive, or other risk-taking behavior with or in the presence of the children.

Credits

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SDCL, Ch. 25-4A, App. A, Parenting Guideline 2

Guideline 2. Noncustodial Parenting Time With Children Under Age Five

Currentness

2.1. Children Under Age Five Generally. Newborns (birth to three months) and infants (three to six months) have a great need for continuous contact with their primary caregiver, but also frequent contact with both parents who provide a sense of security, nurturing, and predictability. Generally, overnights for a very young child is not recommended unless the noncustodial parent is very closely attached to the child and is able personally to provide primary care, the child is adaptable, and the parents are cooperative. Older children are able to tolerate more and longer separations from one parent or the other. The following guidelines for children under age five are designed to take into account childhood developmental milestones. Since children mature at different rates, these may need to be adjusted to fit a child's individual circumstances. These guidelines will not apply in those instances where the parents are truly sharing equally all the caregiving responsibilities for the children and the children are equally attached to both parents. In those situations where the custodial parent has been the primary caregiver and the noncustodial parent has maintained a continuous relationship with the children, but has not shared equally in child caregiving, the following guidelines generally apply.

2.2. Newborns - Birth to Three Months. Three, two-hour custodial periods per week and one weekend custodial period for six hours at the custodial parent's residence or another agreed location. No overnights, except in circumstances described in 1.16 F(a) and (b) (noncustodial parent caring for infant in accord with previous arrangements). Breastfeeding must be accommodated, but the parents must cooperate in working out alternatives. See Paragraph 1.16 F (breastfeeding).

2.3. Infants - Three to Six Months. Alternative Parenting Plans: (1) Three, three hour custodial periods per week, with one weekend day for six hours. Breast feeding must be accommodated. Or (2) Three, three-hour custodial periods per week, with one overnight on a weekend for no longer than a twelve-hour period, if the child is not breastfeeding and the noncustodial parent is capable of personally providing primary care. See exceptions in Paragraph 1.16 F(a) and (b).

2.4. Babies - Six to Twelve Months. Alternative Parenting Plans: (1) Three custodial periods per week of up to four hours each with one weekend day for six hours; or (2) Three custodial periods per week of up to four hours each with one weekend day for six hours, but with one overnight not to exceed twelve hours, if the child is not breastfeeding, and the noncustodial parent is capable of providing personal primary care; or (3) Child spends time in alternate homes, but spends significantly more time in one parent's home and no more than one to two overnights spaced regularly throughout the week at the other parent's home, if the child is not breastfeeding. As to arrangements (1), (2), and (3), see exceptions in Paragraph 1.16 F(a) and (b). Arrangement (3) should be considered only for mature, adaptable children and cooperative parents.

2.5. Toddlers - Twelve to Thirty-six Months. Alternative Parenting Plans: (1) Three custodial periods per week of up to eight hours each on a predictable schedule; or (2) Three custodial periods per week of up to eight hours each on a predictable schedule in addition to one overnight per week; or (3) Child spends time in alternate homes, but with significantly more time in one

parent's home with one or two overnights spaced regularly throughout the week. Arrangement (3) requires an adaptable child and cooperative parents.

2.6. Preschoolers - Three to Five Years. Alternative Parenting Plans: (1) One overnight custodial period and one midweek custodial period with the child returning to the custodial parent's home at least one hour before bedtime; or (2) Two or three nights at one home, spaced throughout the week, the remaining time at the other parent's home. Arrangement (2) requires an adaptable child and cooperative parents. In addition, a vacation of no longer than two weeks with the noncustodial parent.

2.7. Children in Day Care. In families where a child has been in day care before the parental separation, the child may be able to tolerate more time with the noncustodial parent earlier because the child is more accustomed to separations from both parents. The noncustodial parent of a child under age five should not during his/her time place the child with a babysitter or day care provider. If the noncustodial parent cannot be with the child personally, the child should be returned to the custodial parent. Allowing the child to visit with relatives for short periods of time may be appropriate, if the relatives are not merely serving as babysitters. While a child is in day care, the noncustodial parent may remove the child to have parenting time, provided that suitable prior arrangements are made with both the custodial parent and the day care provider. This parenting time must also not jeopardize the provision of the day care by that provider. The noncustodial parent must be available to provide direct care and at least one day's notice is given to the custodial parent. The parent removing the child is either to take the child to the other parent at the regular pick up time, or see that the child is returned to day care prior to the pick up time. Parental responsibility for day care costs will remain the same.

2.8. Holidays and Summer. For toddlers and preschool-age children, when the parents celebrate the holiday in the same or a nearby community, the parents will alternate Christmas Eve and Christmas Day each year so that the children spend equal time with each parent during this holiday period. Other major holidays should also be divided between the parents. With children ages three to five, a vacation of up to two weeks of uninterrupted time in the summer upon thirty days advance written notice (by mail, email, or text message) is reasonable. Parents are encouraged to coordinate vacation plans.

Credits

Source: [SL 2004, ch 313 \(Supreme Court Rule 02-07\)](#), eff. July 1, 2002; [SL 2013, ch 261](#), (Supreme Court Rule 12-10), eff. Apr. 18, 2012.

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SDCL, Ch. 25-4A, App. A, Parenting Guideline 3

Guideline 3. Noncustodial Parenting Time for Children Over Age Five When There Is Sole Custody or Primary Physical Custody and the Parents Reside No More Than 200 Miles Apart

Currentness

3.1. Weekends. Parenting time will consist of alternate weekends from Friday at 5:30 p.m. to Sunday at 7:00 p.m., or an equivalent period of time if the noncustodial parent is unavailable on weekends and the children do not miss school. The starting and ending times may change to fit the parents' schedules. In addition, if time and distance allow, the noncustodial parent may spend time on a regular schedule with the children once or twice per week for two or three hours, or have one midweek overnight time. In most cases, it is a positive experience for the children to have the noncustodial parent involved in taking the children to and from school, and it is recommended that the noncustodial parent extend the alternating weekends by picking up the children from school on Friday and taking the children to school on Monday. All transportation for the midweek custodial periods is the responsibility of the parent exercising them.

3.2. Mother's Day - Father's Day. The children shall be with their mother each Mother's Day and with their father each Father's Day from 9:00 a.m. to 8:00 p.m. Conflicts between these special days and regular parenting time will be resolved under Paragraph 1.9.

3.3. Summer Vacation. The children will be with each parent for one-half of the school summer vacation. At the option of the noncustodial parent, the time may be consecutive or it may be split into two or more blocks of time. If the children go to summer school and it is impossible for the noncustodial parent to schedule this time other than during summer school, the noncustodial parent may elect to take the time when the children are in summer school and transport the children to the summer school sessions at the children's school or an equivalent summer school session in the noncustodial parent's community.

3.4. Winter (Christmas) Vacation. The children will spend with each parent one-half of the school winter vacation, a period that begins the evening the children are released from school and continues to the evening of the day before the children will return to school. If the parents cannot agree on the division of this period, the noncustodial parent will have the first half in even-numbered years. Holidays, such as Christmas, are extremely important times of shared enjoyment, family tradition, and meaning. Families living in the same or nearby communities must work out ways for the children to spend part of each important holiday at both homes. If the parents are unable to work out a shared arrangement for the Christmas/ New Year holiday and they celebrate the holidays in the same or a nearby community, in those years when Christmas does not fall in a parent's week, the children will be with the other parent from 11:00 a.m. to 8:00 p.m. on Christmas Day.

3.5. Holiday Weekends. Parents will alternate the following holiday weekends: Martin Luther King, Jr. Day; President's Day; Easter; the 4th of July; Native Americans' Day; and Thanksgiving. Thanksgiving will begin on Wednesday evening and end on Sunday evening; Easter weekend will begin on Thursday evening and end on Sunday evening; Martin Luther King Jr. Day, President's Day, and Native Americans' Day weekends will begin on the preceding Friday evening and end on Monday evening; the 4th of July will begin the evening of July 3 at 5:00 p.m. and end the morning of July 5 at 10:00 a.m. Unless otherwise

specified, holiday weekends begin at 5:30 p.m. and end at 7:00 p.m. on the designated days. The noncustodial parent will have Memorial Day weekend and the custodial parent will have Labor Day weekend.

3.6. Children's Birthdays. As with holidays, a child's birthday will be alternated annually between the parents. If a child's birthday falls on a weekend, it will be celebrated with the noncustodial parent from 11:00 a.m. to 8:00 p.m. (or so much of the period as the noncustodial parent elects to use). In some instances, the parents may agree to share the child's birthday, with each parent spending a few hours with the child.

3.7. Parent's Birthdays. The children will spend the day with the parent on the parent's birthday, unless it interferes with the other parent's scheduled time during a vacation or a major holiday. If a parent's birthday falls on a holiday, that parent may elect to exercise parenting time on another day during that month, upon sufficient advance notice to the other parent.

3.8. Conflicts Between Regular and Holiday Weekends. When there is a conflict between a holiday weekend and the regularly scheduled weekend time with the parent, the holiday takes precedence. Unless mutually agreed, there will be no makeup parenting time in conflicts between holiday weekend and the regularly scheduled weekend time.

3.9. Parenting Time Before and During Summer Periods. The custodial parent will have the weekend before the beginning and the weekend after the end of the noncustodial parent's summer period, regardless of whose weekend it may be. Weekend time "missed" during the summer period will not be "made up." During the noncustodial parent's extended summer time with the children of more than three consecutive weeks, it will be the noncustodial parent's duty to arrange for a mutually convenient 48-hour continuous period of time for the custodial parent to spend with the children, unless impractical because of distance.

3.10. Notice of Canceled Time With the Children. Whenever possible, the noncustodial parent will give a minimum of three days notice of intent not to exercise all or part of the scheduled time with the children. When such notice is not reasonably possible, the maximum notice permitted by the circumstances, and the explanation, will be provided to the other parent. Custodial parents will give the same type of notice when events beyond their control make the cancellation or modification of the scheduled time with the noncustodial parent necessary. If the custodial parent cancels or modifies the noncustodial parent's time with the children because the children have a scheduling conflict, the noncustodial parent will be given the opportunity to take the children to the scheduled event or appointment.

3.11. Pick Up and Return of Children. When the parents live in the same community, the responsibility for picking up and returning the children will be shared. Usually the parent who receives the children will handle the transportation. The person picking up or returning the children has an obligation to be punctual, to arrive at the agreed-upon time, not substantially earlier or later. Repeated, unjustified violations of this provision may subject the offender to court sanctions.

3.12. Additional Time With the Noncustodial Parent. The children's time with the noncustodial parent should be liberal and flexible. For many parents, these guidelines should be considered only a minimum direction for interaction with the children. These guidelines are not meant to foreclose the parents from agreeing to modify the Parenting Plan as they find reasonable and in the best interests of their children at any given time.

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SDCL, Ch. 25-4A, App. A, Parenting Guideline 4

Guideline 4. Noncustodial Parenting Time With Children Over
Age Five When Parents Reside More Than 200 Miles Apart

Currentness

4.1. Summer and Holidays. This parenting time will consist of all but three weeks of the school summer vacation period. It is recommended that the time start one week after school is out and end two weeks before school begins so that the child will be well prepared to recommence school. In addition, where distance and finances permit, on an alternating basis, the Thanksgiving break, school winter (Christmas) break, and spring break will be with the noncustodial parent.

4.2. Priority of Summer Time With Noncustodial Parent. Summer time with the noncustodial parent takes precedence over summer activities (such as sports) when the noncustodial parent's time cannot be reasonably scheduled around such events. Even so, the conscientious noncustodial parent will often be able to enroll the child in a similar activity in the noncustodial parent's community.

4.3. Notice. At least sixty (60) days written notice (by mail, email, or text message) must be given by the noncustodial parent of the date for commencing extended summer parenting time with the children so that the most efficient means of transportation may be obtained and the parents and the children may arrange their schedules. Failure to give the precise number of days notice does not entitle the custodial parent the right to deny the noncustodial parent parenting time with the children.

4.4. Additional Time with the Noncustodial Parent. Where distance and finances permit, additional parenting time for the noncustodial parent, such as holiday weekends or special events, is encouraged. When the noncustodial parent is in the area where the children reside, or the children are in the area where the noncustodial parent resides, liberal time with the children must be allowed and because the noncustodial parent does not get weekly time with the children, the children can miss some school to spend time with the noncustodial parent, so long as it does not substantially impair the children's scholastic progress.

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SDCL, Ch. 25-4A, App. A, Parenting Guideline 5

Guideline 5. Shared Parenting Plan

Currentness

South Dakota law allows parents to agree in writing to a detailed Shared Parenting Plan, which provides that the children will reside no less than one hundred eighty nights per calendar year in each parent's home, and that the parents will share the duties and responsibilities of parenting the children and the expenses of the children in proportion to their incomes. Such Shared Parenting Plan must be incorporated into the custody order. [SDCL 25-7-6.27](#). A Shared Parenting Plan requires adaptable children and cooperative parents.

Credits

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Title 25. Domestic Relations

Chapter 25-5. Parent and Child (Refs & Annos)

SDCL § 25-5-7.1

25-5-7.1. Joint legal custody order--Factors for court's consideration--Joint physical custody

Currentness

In any custody dispute between parents, the court may order joint legal custody so that both parents retain full parental rights and responsibilities with respect to their child and so that both parents must confer on, and participate in, major decisions affecting the welfare of the child. In ordering joint legal custody, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child's welfare or may divide those aspects between the parties based on the best interest of the child. If it appears to the court to be in the best interest of the child, the court may order, or the parties may agree, how any such responsibility shall be divided. Such areas of responsibility may include the child's primary physical residence, child care, education, extracurricular activities, medical and dental care, religious instruction, the child's use of motor vehicles, and any other responsibilities which the court finds unique to a particular family or in the best interest of the child. If the court awards joint legal custody, it may also order joint physical custody in such proportions as are in the best interests of the child, notwithstanding the objection of either parent.

Credits

Source: SL 1989, ch 217, § 1; [SL 2011, ch 131, § 1](#); [SL 2012, ch 141, § 1](#).

[Notes of Decisions \(16\)](#)

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Title 25. Domestic Relations

Chapter 25-5. Parent and Child (Refs & Annos)

SDCL § 25-5-7.2

25-5-7.2. Residential parent to make routine decisions concerning child

Currentness

During the time a child, over whom the court has ordered joint legal custody to both parents, resides with either parent, that parent shall decide all routine matters concerning the child.

Credits

Source: SL 1989, ch 217, § 2.

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-5. Parent and Child (Refs & Annos)

SDCL § 25-5-7.3

25-5-7.3. Parents to have equal access to records pertaining
to child--Name and address of both parents to be listed

Currentness

Access to records and information pertaining to a minor child, including, but not limited to, medical, dental, orthodontia, optometric and similar health care, and school records shall be made equally available to both parents. Counseling, psychiatric, psychotherapy, and other records subject to confidentiality or privilege shall only be released in accordance with state and federal law; but, if available to one parent, shall be available to both. The parents shall make reasonable efforts to ensure that the name and address of the other parent is listed on all such records.

Credits

Source: SL 1989, ch 217, § 3; [SL 2008, ch 129, § 1](#).

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S D C L § 25-5-7.3, SD ST § 25-5-7.3

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-5. Parent and Child (Refs & Annos)

SDCL § 25-5-7.4

25-5-7.4. Written applications to enroll child in activity or program to provide name and address of other parent

Currentness

If either parent enrolls the child in any social, beneficent, religious, or peer group activity, service, benefit, or program for which written application is required, the enrolling parent shall provide the name and address of the other parent on, or supplementary to, the application. The provisions of this section do not apply to any written application for any type of annuity or insurance.

Credits

Source: [SL 2008, ch 129, § 2.](#)

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S D C L § 25-5-7.4, SD ST § 25-5-7.4

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-5. Parent and Child (Refs & Annos)

SDCL § 25-5-7.5

25-5-7.5. Access to records and application requirements not applicable to certain parents

Currentness

The provisions of §§ 25-5-7.3 and 25-5-7.4 do not apply in any case in which a court has:

- (1) Terminated the rights of either parent; or
- (2) Restrained either parent, by court order, from contact with the child.

Moreover, a court of competent jurisdiction may determine that the application of § 25-5-7.3 or 25-5-7.4, or both, is inappropriate under the facts and circumstances of any particular case.

Credits

Source: SL 2008, ch 129, § 3.

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S D C L § 25-5-7.5, SD ST § 25-5-7.5

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-5. Parent and Child (Refs & Annos)

SDCL § 25-5-7.6

25-5-7.6. Parent sharing custody to foster other parent's relationship with child

[Currentness](#)

Each parent sharing joint legal custody of their child shall foster the other parent's relationship with the child.

Credits

Source: [SL 2011, ch 131, § 2.](#)

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-5. Parent and Child (Refs & Annos)

SDCL § 25-5-8

25-5-8. Father's rights not superior to mother's while separated

[Currentness](#)

The husband and father, as such, has no rights superior to those of the wife and mother in regard to the care, custody, education, and control of the children of the marriage, while such husband and wife live separate and apart from each other.

Credits

Source: SDC 1939, § 14.0305.

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-5. Parent and Child (Refs & Annos)

SDCL § 25-5-9

25-5-9. Habeas corpus to award child custody when parents separated without divorce--Rules of law governing

[Currentness](#)

When husband and wife live separate and apart from each other without being divorced, the circuit court or judge thereof, upon application of either, may grant a writ of habeas corpus to inquire into the custody of any minor unmarried child of the marriage, and may award the custody of such child to either for such time and under such regulations as the case may require. The decision of the court or judge must be guided by the rules provided by law for awarding custody of a minor or appointing guardians.

Credits

Source: SDC 1939, § 14.0305.

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-5. Parent and Child (Refs & Annos)

SDCL § 25-5-10

25-5-10. Custody and earnings of children born out of wedlock

[Currentness](#)

The mother of an unmarried minor born out of wedlock is entitled to its custody, services, and earnings subject to the court's right to award custody of the child to either parent, considering the best interests of the child as to its temporal, mental, and moral welfare.

Credits

Source: SDC 1939, § 14.0304; SL 1982, ch 192; [SL 1991, ch 210, § 7](#).

[Notes of Decisions \(44\)](#)

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-5. Parent and Child (Refs & Annos)

SDCL § 25-5-10.1

25-5-10.1. Best interest of child not presumed--Change of custody

Currentness

Notwithstanding any initial entitlement to custody pursuant to [§ 25-5-10](#), there is no legal presumption that such custody is in the best interest of the child, nor is a change of circumstances required for a change of the initial custody as determined by [§ 25-5-10](#).

Credits

Source: [SL 2008, ch 131, § 2](#).

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S D C L § 25-5-10.1, SD ST § 25-5-10.1

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-5. Parent and Child (Refs & Annos)

SDCL § 25-5-12

25-5-12. Relinquishment of child control and earnings--Abandonment by parent

Currentness

The parent, whether solvent or insolvent, may relinquish to the child the right of controlling him and receiving his earnings. Abandonment by the parent is presumptive evidence of such relinquishment.

Credits

Source: SDC 1939, § 14.0319.

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South Dakota Codified Laws

Title 25. Domestic Relations

Chapter 25-5. Parent and Child (Refs & Annos)

SDCL § 25-5-13

25-5-13. Power to change residence of child--Restraining power of circuit court

[Currentness](#)

A parent entitled to the custody of a child has the right to change his residence, subject to the power of the circuit court to restrain a removal which would prejudice the rights or welfare of the child.

Credits

Source: SDC 1939, § 14.0306.

[Notes of Decisions \(18\)](#)

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